



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

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NOTE: POSSIBLE RULE EXTENSION

If the proposed rules contain existing, regular rules being readopted or readopted with amendments, and are not adopted and effective until after the expiration date(s) of the existing rules(s), then the existing rules will nevertheless continue in effect pursuant to RSA 541-A:14-a until the proposed rules are adopted and effective.

2. COMMITTEE (JLCAR)

REGULAR MEETING: **Friday, May 18, 2018 9:00 a.m.**
Rooms 306/308, Legislative Office Building

CONTINUED MEETING: **Friday, June 1, 2018 9:00 a.m.**
Rooms 306/308, Legislative Office Building

JLCAR MEETING DATES AND RELATED FILING DEADLINES MAY-JUNE, 2018

The JLCAR has voted to hold its regularly scheduled meetings for May through June, 2018 on the third Friday of the month as listed below. The minimum 14-day “deadline” prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules* for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Fridays to address items postponed from the prior regular meetings.

Regular Meeting Filing Deadline*	Regular Meeting Date	Continued Meeting Date
May 4	May 18	June 1
June 1	June 15	June 29

***NOTE:** The filing deadlines relate to JLCAR meetings pursuant to RSA 541-A. However, if a proposed interim rule is filed with a rulemaking notice for publication in the *Rulemaking Register*, be aware that Thursdays—not Fridays—remain the filing deadline under the *Drafting and Procedure Manual for Administrative Rules* to have the rulemaking notice published the following week. Therefore, filing the notice together with the proposed interim rule no later than the Thursday **before** the 14-day statutory deadline would assure that both the 14-day deadline for filing the rule and the deadline for publication in the *Rulemaking Register* would be met. See description in §3.3 of Chapter 3 of the *Drafting and Procedure Manual for Administrative Rules*.

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2018-95	Bcr 200 various	State Building Code Review Board Various Building Code Review Board Practice and Procedure Rules.	1
2018-96	He-C 6350 various	Department of Health and Human Services, Commissioner Certification for Payment Standards for Residential Treatment Programs.	3
2018-97	Nur 401.04(e)-(h)	Board of Nursing Specific Renewal Requirements for an APRN.	6

**JLCAR MEETING DATES AND RELATED FILING DEADLINES
JULY-DECEMBER, 2018**

The JLCAR has voted to hold its regularly scheduled monthly meetings for July through December, 2018 on the third Thursday of the month as listed below. The minimum 14-day “deadline” prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Thursdays to address any items postponed from the prior regular meetings.

Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
July 5	July 19	August 2
August 2	August 16	September 6
September 6	September 20	October 4
October 4	October 18	November 1
November 1	November 15	December 6
December 6	December 20	None

Notice Number 2018-95

Rule Number Various Bcr 200

<p>1. Agency Name & Address:</p> <p>Building Code Review Board c/o Department of Safety 33 Hazen Drive Concord, NH 03305</p>	<p>2. RSA Authority: RSA 155-A:10, V & RSA 541-A:16, I(b)(2) & (3); RSA 541-A:30-a, I & III(a)</p> <p>3. Federal Authority: <u>N/A</u></p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment <u> X </u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p>
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5. Short Title: **Various Building Code Review Board Practice and Procedure Rules**

6. (a) Summary of what the rule says and of any proposed amendments:

The proposed rules amend various sections of Bcr 200 pertaining to the Building Code Review Board practice and procedure rules. In addition to minor issues in citing rulemaking authority for Bcr 200 and clarifying Bcr 205.01(b) on filing documents, the proposed rules eliminate the redundant word “complaints” in Bcr 205.02(a) on subscription and veracity of documents; provide parties 10 days to file objections to motions in Bcr 206.03(f); eliminate a mandatory 75-day retention period for recordings of rulemaking hearings in Bcr 213.07(d) in order to eliminate potential confusion if state law or Department of Safety records retention policies indicate a different retention period; and eliminate references to the State Board for the Licensing and Regulation of Plumbers in appeal rules Bcr 215.01(a) and Bcr 215.02(b) due to the dissolution of that Board and due to the Building Code Review Board’s former authority to hear plumbing appeals being transferred to the Mechanical Licensing Board.

6. (b) Brief description of the groups affected:

Those groups affected by this rulemaking include members of the State Building Code Review Board; members of the public that may appear before the Board; Department of Safety, State Fire Marshal’s Office; licensed electricians; licensed home inspectors; the Electrician’s Board; and the Board of Home Inspectors.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Specific State or Federal Statutes or Regulations which the Rule Implements
Bcr 205.01(b) & Bcr 205.02(a)	RSA 541-A:30-a, III (a)
Bcr 206.03(f)	RSA 541-A:30-a, III(a)
Bcr 207.10(d)	RSA 541-A:30-a, I
Bcr 213.07(d)	RSA 541-A:16, I(b)(3)
Bcr 215.01(a)	RSA 541-A:16, I(b)(2)
Bcr 215.02 intro. & (b)	RSA 541-A:7

NN 2018-95 Continued

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **David M. Hilts** Title: **Legal Counsel**
Address: **Department of Safety** Phone #: **603 227-4032**
33 Hazen Drive Fax#: **603-271-3903**
Concord, NH 03305 E-mail: **David.Hilts@dos.nh.gov**
TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Friday, June 8, 2018 at end of public hearing**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, June 8, 2018 at 10:15 a.m.**

Place: **Second Floor Conference Room**
Department of Safety
33 Hazen Drive
Concord, NH 03305

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 18:094, dated May 3, 2018

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rule to the existing rule.

2. **Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds.

3. **Cost and benefits of the proposed rule(s):**

- A. **To State general or State special funds:**

None.

- B. **To State citizens and political subdivisions:**

None.

- C. **To independently owned businesses:**

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

1. The proposed rules do not create a new program or responsibility or expand or modify an existing program or responsibility to any political subdivision.
2. The proposed rules do not mandate or assign a program or responsibility to any political subdivision of the state in such a way as to increase the costs the political subdivision must pay.
3. No state funding is necessary because the proposed rules do not mandate or assign a program or responsibility to any political subdivision so as to increase the costs the political subdivision must pay.

Notice Number	2018-96	Rule Number	He-C 6350 (various)
1. Agency Name & Address: Dept. of Health & Human Services Div. for Children, Youth & Families Thayer Bldg., 129 Pleasant St. Concord, NH 03301		2. RSA Authority:	RSA 170-G:5; and RSA 170-G:4, XVIII
		3. Federal Authority:	
		4. Type of Action:	
		Adoption	
		Amendment	X
		Repeal	
		Readoption	
		Readoption w/amendment	

5. Short Title: **Certification for Payment Standards for Residential Treatment Programs (various)**

6. (a) Summary of what the rule says and of any proposed amendments:

He-C 6350 contains the certification for payment standards for residential treatment programs. The Department of Health and Human Services (Department) proposes to amend or insert specific language in He-C 6350 to come into compliance with federal regulations as follows:

- He-C 6350.02 (ai) to add a definition of “Reasonable and Prudent Parent Standard” in alignment with Social Security Act section 475(10)(A);
- He-C 6350.05 (a) is being updated to utilize a new application Form 2601 “Certification for Payment Application – Residential Programs” (July 2018);
- He-C 6350.05 (d)(6) to add a requirement to ensure liability coverage in compliance with Title IV-E, Social Security Act section 471(a)(10)(C);
- He-C 6350.05 (d)(8), formerly (d)(7), to add the requirement that the applicant identify the person responsible for implementation of the Reasonable and Prudent Parent Standard;
- He-C 6350.05 (f) is being updated to utilize a new renewal application Form 2601R “Certification for Payment Renewal Application – Residential Programs” (July 2018);
- He-C 6350.05 (h)(4) to add the requirement that the applicant identify the person responsible for implementation of the Reasonable and Prudent Parent Standard on the renewal application;
- He-C 6350.05 (h)(6) to add a requirement to ensure liability coverage in compliance with Title IV-E, Social Security Act section 471(a)(10)(C);
- He-C 6350.10 (b)(3) to add a requirement for application of the Reasonable and Prudent Parent Standard in compliance with Title IV-E, Social Security Act section 471(a)(10)(A);
- He-C 6350.10 (b)(7) formerly (b)(6) to include parents as parties with the right to file a grievance in compliance with Title IV-E, Social Security Act section 471(a)(10)(A);
- He-C 6350.11 (i) to add a staffing requirement specific to the Reasonable and Prudent Parent Standard in compliance with Title IV-E, Social Security Act section 471(a)(10)(B);
- He-C 6350.11 (n)(2) formerly (m)(2) to include a training requirement for the Reasonable and Prudent Parent Standard in compliance with Title IV-E, Social Security Act section 471(a)(10)(B);

NN 2018-96 Continued

6. (a) continued

- He-C 6350.12 (c)(13) to add a requirement communicating the application of the Reasonable and Prudent Parent Standard to effectuate compliance with Title IV-E, Social Security Act section 471(a)(10)(A);
- He-C 6350.15 (d) to add a requirement to ensure liability coverage in compliance with Title IV-E, Social Security Act section 471(a)(10)(C);
- He-C 6350.15 (f)(4), formerly (e)(4), to include a requirement for application of the Reasonable and Prudent Parent Standard to effectuate compliance with Title IV-E, Social Security Act section 471(a)(10)(A);
- He-C 6350.15 (n) to add a requirement for application of the Reasonable and Prudent Parent Standard in compliance with Title IV-E, Social Security Act section 471(a)(10)(A);
- He-C 6350.27 (e) to add a requirement for application of the Reasonable and Prudent Parent Standard in compliance with Title IV-E, Social Security Act section 471(a)(10)(A); and
- He-C 6350.28 (k) to add a requirement for application of the Reasonable and Prudent Parent Standard in compliance with Title IV-E, Social Security Act section 471(a)(10)(A).

6. (b) Brief description of the groups affected:

Groups affected by these rules include those running a residential treatment facility that receive payments from the Department.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

He-C 6350.02(ai)	RSA 170-E:25; RSA 170-G:5
He-C 6350.05(a), (d), (d) intro., (d)(6), (d)(8), (f), (h) intro., (h)(4), and (h)(6)	RSA 170-G:4, XVIII
He-C 6350.10 intro., (b) intro., (b)(3), and (b)(7)	RSA 170-G:4, XVIII
He-C 6350.11(i), (n) intro., and (n)(2)	RSA 170-G:4, VII; RSA 170-G:4, XVIII
He-C 6350.12(c) intro. and (c)(13)	RSA 170-G:4, XVIII
He-C 6350.15(d), (f) intro., (f)(4), and (n)	RSA 126-U; RSA 170-E:25; RSA 170-G:4, III; RSA 170-G:4, XVIII
He-C 6350.27(e) and 6350.28(k)	RSA 170-G:4, III; RSA 170-G:4, XVIII; RSA 193:27

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	David Newton, Esq.	Title:	Legal Counsel – Rules Unit
Address:	Dept. of Health and Human Services Administrative Rules Unit 129 Pleasant St. Concord, NH 03301	Phone #:	271-9640
		Fax#:	271-5590
		E-mail:	David.newton@dhhs.nh.gov

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:
<http://www.dhhs.nh.gov/oos/aru/comment.htm>

NN 2018-96 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Friday, June 22, 2018**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, June 15 at 12:00 PM**

Place: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 18:093, dated May 8, 2018

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When comparing the proposed rules to the existing rules, the proposed rules may increase costs to independently owned businesses by an indeterminable costs.

2. Cite the Federal mandate. Identify the impact of state funds:

The Department of Health and Human Services states that it was notified on 3/22/2017 that the state's Title IV-E plan was not approved for compliance with Social Security Act section 471(a)(10). He-C 6350 is one of two measures identified as needing amendment in order to bring the Title IV-E plan into compliance. Title IV-E federal funds vary by year, but in FY 2017 the state received approximately \$1.2 million in federal funds specific to programs certified by this rule.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To Independently owned businesses:

Potential costs to independently-owned businesses are as follows:

- While programs certified under the rule already maintain general liability insurance, the proposed rule may result in additional resources needed to provide proof of coverage;
- An indeterminable cost related to implementing the Reasonable and Prudent Parent Standards;
- An indeterminable cost if programs are unable to designate current staff as specialists in the Reasonable and Prudent Parent Standards, and must hire new staff in order to be compliant; and
- An indeterminable cost if programs choose not to utilize Department-provided training on the Reasonable and Prudent Parent Standards, and seek alternative training instead.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules modify an existing program or responsibility, but do not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore do not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number 2018-97

Rule Number Nur 401.04(e)-(h)

<p>1. Agency Name & Address: NH Board of Nursing c/o Office of Professional Licensure & Certification 121 S. Fruit Street Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 326-B:9-a, I</u></p> <p>3. Federal Authority: <u>N/A</u></p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment <u> X </u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p>
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5. Short Title: **Specific Renewal Requirements for an APRN**

6. (a) Summary of what the rule says and of any proposed amendments:

This proposal amends Nur 401.04, relative to specific renewal requirements for an advanced practice registered nurse (APRN), in order to implement rulemaking authority outlined in RSA 326-B:9-a, I, relative to workforce development surveys conducted by the Department of Health and Human Services. The proposal inserts new paragraphs (e)-(h) which specify that licensees have the option to complete this survey but may opt out by submitting an opt out form, whose information shall be kept confidential.

6. (b) Brief description of the groups affected:

This proposal affects licensed APRNs who seek renewal of their license.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Statute
Nur 401.04(e)-(h)	RSA 326-B:9-a, I

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Robert J. Lamberti, Jr.**

Title: **Attorney III**

Address: **121 S. Fruit Street**
Concord, NH 03301

Phone #: **(603) 271-3103**

Fax#: **(603) 271-6990**

E-mail: **Robert.lambertijr@oplcnh.gov**

TTY/TDD Access: **Relay NH 1-800-735-2964**
or dial 711 (in NH)

NN 2018-97 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **June 21, 2018 at the conclusion of the public hearing**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **June 21, 2018 at 8:30 a.m.**

Place: **Office of Professional Licensure and Certification
121 S. Fruit Street
Concord, NH 03301**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 18:095, dated 05/03/18

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**

Not applicable as these are new rules.

2. **Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds.

3. **Cost and benefits of the proposed rule(s):**

The proposed rules require APRNs to complete, as part of their renewal application, the NH Division of Public Health Service's Health Professions Survey, with an opportunity to opt out of the survey, pursuant to RSA 326-B:9-a, I.

- A. **To State general or State special funds:**

None.

- B. **To State citizens and political subdivisions:**

None.

- C. **To independently owned businesses:**

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

These rules do not violate Part I, Article 28-a of the New Hampshire Constitution. These rules do not mandate or assign this program to any political subdivision in any way.

Pursuant to RSA 541-A:9, I(i), the following special notice is being published at the request of the Board of Education.

SPECIAL NOTICE FOR A SECOND RULEMAKING HEARING

Notice Number 2018-74 Rule Number Ed 403.03; Ed 405.01; Ed 407.01

<p>1. Agency Name & Address:</p> <p>State Board of Education c/o NH Department of Education 101 Pleasant Street Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 186:11, XXIX</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: **Non-public School Approval**

6. To provide reasonable opportunity for public comment pursuant to RSA 541-A:11, I(a), a second rulemaking hearing has been scheduled for these proposed rules for which notice appeared in the Rulemaking Register on **April 19, 2018** under Notice Number **2018-74**. The first public hearing was scheduled for May 10, 2018. The second public hearing has been scheduled for:

Date and Time: **June 13, 2018 at 1:00 p.m.**

Place: **NH Department of Education, State Board Room
101 Pleasant Street, Concord, NH 03301**

7. New deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **June 29, 2018**

Fax

E-mail

Other format (specify):

8. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Diana Fenton**

Title: **Attorney**

Address: **Department of Education
101 Pleasant Street
Concord, NH 03301**

Phone #: **(603) 271-3189**

Fax#: **(603) 271-4134**

E-mail: **Diana.fenton@doe.nh.gov**

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)